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DEPT FOR INL AND AF

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JUSTICE FOR OPDAT--SILVERWOOD

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SUBJECT: NIGERIA: ANTI-CORRUPTION COMMISSION'S PROGRESS

Classified by Ambassador Howard F. Jeter. Reasons: 1.5 (b) and (d).

1.(C) SUMMARY: The two year-old Independent Corrupt Practices and Related Offenses Commission (ICPC) recently obtained its first conviction of a public official under the 2000 Anti-Corruption law. The number of ICPC cases under investigation or submitted to courts for prosecution has doubled in the last six months thanks in large measure to new staff and USG-provided training. Additional funding is needed to expand the Commission's work outside of Abuja; this will be a key indicator of GON support for a sustained anti-corruption drive. END SUMMARY.

2.(C) During an October 11 meeting with RNLEO, Ali Aku, the Special Assistance to the Chairman of the ICPC, provided an update on the Commission's activities. Aku disclosed the Commission has 127 cases it is handling. Court proceedings have been completed in 10 cases (verdicts rendered in three; decisions pending in the other seven). 19 cases are currently in court or close to trial. The remaining cases are in various stages of investigation.

3.(C) Aku allowed RNLEO to review some ICPC internal documents on the status of current cases. Police investigators assigned to the Commission have done work in 100 cases. The remaining 27 cases are deemed politically sensitive, involving serving Governors or Police officials, and are being investigated by agents of the State Security Service (SSS) assigned to the Commission. Nine state Governors -- one fourth of the total -- are being investigated for misappropriating state funds, according to the documents. These are the Governors of: Kogi, Ondo, Anambra, Niger, Zamfara, Bayelsa, Edo, Nassarawa and Lagos states.

First Three Prosecutions Concluded

4.(C) The first three verdicts of ICPC prosecutions were handed down by High Courts in the last month. Aku highlighted news of the Commission's first conviction) the conviction of a Local Government Area (LGA) Chairman in Kogi state for misappropriating state funds. The LGA Chairman was sentenced to three years in jail and fined 100,000 naira (equivalent to USD 800), mandated by minimum sentencing guidelines in the 2000 law. The Commission had two other cases that produced acquittals at the same time. A High Court Judge in Kano, charged with receiving bribes to influence his judgments, was acquitted by a fellow Kano judge. Similarly, a separate Kano High Court judge acquitted a LGA Chairman of Kano State charged with misappropriation of government funds. Aku stated the Commission is appealing both decisions and he blamed the acquittals on corruption among the judges handling the cases.

Shooting High

5.(S) Documents produced by Aku revealed that the Commission is investigating the President and Vice President for alleged corruption related to contracts. The Commission is also investigating Speaker of the House, Ghali Umar Na,Abba, for corruption. News of the latter investigation appeared recently in the local press, prompting angry outbursts from the Speaker, a letter from him to the ICPC Chairman demanding an explanation, and an injunction he filed against the ICPC. Na,Abba's theatrics notwithstanding, the Commission continues the investigation, according to Aku. (Note: All members of the National Assembly, like the Governors, Vice President and President, are immune from prosecution under the 2000 Corruption Act, but only so long as they hold office; once out of office, they can be prosecuted for prior

crimes. End Note)

New Staff to Build Capacity

6.(C) The Commission has had to delay and modify its recruitment of additional staff originally planned for December 2002, Aku disclosed. The unresolved FY02 GON budget impasse, which allows for the disbursement of only 50% of agencies, funds, has forced the Commission to delay the recruitment until the first or second quarter of 2003. To save funds, the Commission will not have a new testing and interviewing process for candidates, but rather will draw from the list of 1,000 (out of 27,000) candidates that passed the 2001 exam and were interviewed.

7.(C) Aku relayed expressions of gratitude from the ICPC Chairman, Justice Mustapha Akanbi, for the continued USG support to the Commission in the form of INL-funded training provided by DOJ,s Overseas Prosecutorial Development, Assistance and Training (OPDAT) Program and the U.S. Treasury,s Office of Technical Assistance (OTA). Aku stated that the Commission is ready to received the third phase of OPDAT/OTA training) to focus on advance criminal investigative procedures) in November. A fourth phase in December or January will offer select ICPC investigators or instructors a comparative exchange with Hong Kong,s Anti-Corruption Commission. RNLEO queried Aku about a recent press report that quoted ICPC Chairman Akanbi as expressing appreciation for the provision of USD 300 million in assistance to the Commission by an unidentified foreign donor. Aku laughed, explaining that the figure was a misquote and meant to be USD 300,000 and the donor to whom the Chairman was referring was OPDAT/OTA and INL but the Chairman has difficulty citing correctly the several long names of USG agencies involved.

Comment

8.(C) If the Commission could actively move on its high-profile cases in a non-partisan manner, it might begin to silence criticism that it is a tooth-less body lacking the bite to bring senior-level officials to justice, unless at the behest of the Presidency. The conviction of a LGA Chairman is a symbolic first step. Nigeria,s 774 Local Government Areas receive significant federal funds for local development but corruption at this level is serious. A key test of the President,s and National Assembly,s commitment to a sustained, serious anti-corruption drive will be whether the Commission is provided the critical funding to open and staff its new zonal offices, so that the Commission can really take its anti-corruption campaign outside of Abuja. So far, Chairman Akanbi has succeeding in blocking attempts to politicize the Commission, though there is an effort by those involved in the current Presidential impeachment contest to use the Commission for political ends, and this includes accusations against the Chairman himself.

JETER